

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 6364 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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LALIIT RAMCHANDRA PATIL

Versus

STATE OF GUJARAT

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Appearance:

MR RS SANJANWALA for Petitioners

MR ST MEHTA ADDL PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 04/11/1999

ORAL JUDGEMENT

#. Heard learned counsel appearing for the petitioners Mr.Sanjanwala. Rule. Mr.S.T.Mehta, leaned APP waives service of rule for respondent State. This matter is taken up for final hearing at the request of learned counsels appearing for the parties. The petitioners have prayed that the FIR being CR No : III/346/99 registered at Songadh police station of District Surat for the

offence punishable under Section 70-A of the Bombay Prohibition Act be quashed and set aside. It is submitted that the truck bearing registration No : MP-09-D-0939 was carrying gur from Madhya Pradesh to Daman and the same was passing through the territory of State of Gujarat. The said truck was intercepted by the police officials and the above referred crime is registered, truck and the mudamal gur are intercepted and seized by the police during the course of investigation. The petitioners have also prayed that the respondent should be directed to release the truck referred above forthwith with Mudamal as said Mudamal is to be delivered to the purchaser at Daman. Mr.Sanjanwala, learned counsel appearing for the petitioners has taken through the relevant documents produced at Annexure-C & D. He has also pointed out that the policy of the State Government in such cases. Some judgments of this Court are also annexed herewith the petition. According to Mr.Sanjanwala that the petitioners are wrongly involved in the alleged offence punishable under Section 70-A of the Bombay Prohibition Act and they have not committed any offence as alleged. Undisputely, Mudamal was to be carried to Daman and when the truck was passing through the territory of the State of Gujarat, the respondent have tried to involve the petitioners on the ground that they are not holding any licence or permit for trading and / or consuming such gur in the State of Gujarat. Similarly, questions are dealt with by this Court on various occasions and since 1986, consistently, this Court has released the seized mudamal gur and truck by which the rotten gur was brought into territory of State of Gujarat from other State and was going to Daman from other neighboring States. After careful considering all the decisions produced at Annexure-E collectively, without going into detailed discussions, I am inclined to allow this petition.

#. Mr.Sanjanwala, learned counsel appearing for the petitioners has categorically submitted that though it is mentioned in the bill and vouchers that the gur is consumable, the question as to quality of gur is not relevant as the same was to be delivered at Daman out of the territory of the State of Gujarat. The mudamal gur was not to be sold or stored or consumed in the territory of Gujarat and the petitioners are ready to abide by any of the conditions as may be imposed by this Court. While dealing with the similar case, this Court at the time of disposing the Criminal Misc. Application No : 750 of 1996 had issued certain direction (Coram : J.M.Panchal, J.). Similar conditions are also imposed by this Court at the time of disposing of Criminal Misc. Application No :

6268 of 1999 (Coram : C.K.Buch, J.). Mr.Sanjanwala, learned counsel for the petitioners has fairly submitted that the petitioners are ready to abide by conditions if imposed in this case also.

#. For the reasons aforesaid, FIR being CR No.III/346/99 registered with the Songath police station of district : Surat is hereby quashed and set aside and the criminal proceedings initiated in pursuant of the said FIR also turned down on the following conditions and the Mudamal truck with gur is ordered to be released and the same be handed over to the petitioner No.3 on proper identification on following conditions.

- (1) The mudamal gur and the truck seized by the police shall be released.
- (2) FIR being No : CR.III/346 /99 lodged in Songath police station is quashed and set aside.
- (3) The mudamal gur and the truck bearing registration No : MP 09 D 0939 is ordered to be released on the following conditions;
  - (i) The mudamal goods attached from the truck in question be released to the petitioners on their undertaking to the Court that the goods shall not be stored or used or consumed in Gujarat territory and will be taken to its destination at Daman.
  - (ii) The petitioner shall carry the goods in the truck in question under police escort to be given by the police authorities at the costs of the petitioners.
  - (iii) The truck bearing registration No : MP 09 D 0939 shall be released in favour of the petitioner No.3 after proper verification.
  - (iv) In the event of use of the very vehicle in transport of the rotten gur through the territory of State of Gujarat, the petitioner shall intimate the concerned police station telegraphically stating that the root of the truck and the name of the purchasing party in advance to avoid inconvenience.

Rule is made to the extent indicated hereinabove. Direct service is permitted.

Date : 4-11-1999 [C.K.Buch, J.]

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